REMARKS

Claims 1-18 are pending in the present application. Reconsideration in view of the following arguments is respectfully requested.

Drawings

The Examiner has objected to Fig. 3 of the drawings. Applicants have amended step S14 of Fig. 3 to state that the registration process continues if a ZAP command is not sent. In addition, the specification has been amended to make clear that after a ZAP command is sent, step S14 of Fig. 3 is then executed. Please see attached replacement drawing sheet. Accordingly, Applicants respectfully request that this objection be withdrawn.

Specification

The Examiner has objected to the disclosure as having informalities. Applicants have amended the disclosure to overcome the informality objections set forth by the Examiner. Please see attached replacement paragraphs. Accordingly, Applicants respectfully request these objections be withdrawn.

Claim Rejections – 35 USC §112

The Examiner has rejected claims 2-17 under 35 USC §112, second paragraph, for being indefinite for failing to particularly point out and distinctly claim the subject matter. Specifically, the Examiner has objected to terminology in the claims as lacking antecedent basis. Applicants have amended the claims to correct these antecedent

basis problems. Applicants respectfully request that the Examiner withdraw these art grounds of rejection.

Claims Rejections – 35 USC §103

Claims 1-4, 8-10, 12 and 15-17 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over He et al. (US Patent 6,088,451) in view of Asokan et al. (US Publication 2001/0017856). This rejection is respectfully traversed.

He et al. discloses security access to network elements in a computer network environment. User elements and network elements are both coupled to the computer network. A network security server is also coupled to the computer network in order to provide security mechanisms. The network security server includes an authentication server, a credential server, and a network element access server. User elements and network elements operate in conjunction with the elements of the network security server in order to provide secure communications between the two. When access to the network is sought by a user element, a registration database is used to administrate and manage the accessing.

He et al. further discloses that the authentication server can maintain records for user accounts in a database. The records of the user accounts generally comprise information pertaining to the maximum lifetime of each authentication and the maximum number of failed authentication attempts that is allowed.

In addition, as shown in the operational flow of figure 5, a user attempts to log into the network. Should a log-in error occur, for instance when a match does not exist for the user in the registration database, the operation flow proceeds to the "No match"

state. However, if after three unsuccessful attempts to log-in, the operational flow will proceed to the "Termination" state.

He et al. is therefore concerned with a number of failed authentication attempts, and log-in attempts. Authenticating and logging-in are not the same as the user requesting a communication address. Therefore, He et al. does not disclose processing the communication address request based on a failure count accessed using the identifier for the user equipment, as recited in claim 1.

Asokan et al. discloses a method for a mobile station to obtain an IP network address, in a GPRS system. The mobile station generates a link identifier and sends the link identifier to a gateway. The link identifier and a uniqueness check request are sent in a network address request. Once received by the gateway, the link identifier is checked for uniqueness. A corresponding response is then sent, either with confirmation of the uniqueness of the identifier or a different unique link identifier. A network prefix is also sent to the mobile station, where it is combined with the interface identifier to create the IP network address.

Asokan et al. is therefore concerned with checking the uniqueness of a link identifier when a network address request is sent by a mobile. Either confirmation of the uniqueness of the identifier or a different unique link identifier is sent to the mobile to create the IP network address. Therefore, Asokan et al. does not disclose processing the communication address request based on a failure count accessed using the identifier for the user equipment, as recited in claim 1.

Applicants direct the Examiner's attention to two cases decided by the Court of Appeals for the Federal Circuit (CAFC), In re Dembiczak, 175 F.3d 994, 999, 50

USPQ2d 1614, 1617 (Fed. Cir. 1999) and In re Kotzab, 217 F.3d 1365, 1371, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). Both of these cases set forth very rigorous requirements for establishing a prima facie case of obviousness under 35 U.S.C. §103(a). To establish obviousness based on a combination of elements disclosed in the prior art, there must be some motivation, suggestion, or teaching of the desirability of making the specific combination that was made by the applicant. The motivation suggestion or teaching may come explicitly from one of the following:

(a) the statements in the prior art (patents themselves),

(b) the knowledge of one of ordinary skill art, or in some cases,

(c) the nature of the problem to be solved.

See Dembiczak 50 USPQ at 1614 (Fed. Cir. 1999). In Kotzab, the CAFC held that even though various elements of the claimed invention were present (in two separate embodiments of the same prior art reference), there was no motivation to combine the elements from the separate embodiments, based on the teachings in the prior art.

In order to establish a prima facie case of obviousness under 35 U.S.C. §103(a), the Examiner must provide particular findings as to why the two pieces of prior art are combinable. See Dembiczak 50 USPQ2d at 1617. Broad conclusory statements standing alone are not "evidence".

In order to provide motivation for combining He et al. and Asokan et al. to reject claim 1, on page 6 of the Office Action of January 12, 2005, the Examiner asserts:

> One of ordinary skill would be motivated, when receiving any sort of request for use of resources in a network, to not only require an equipment identifier be sent with the request, but to also process the request based on a failure count using the identifier as this would prevent a brute force authentication attack on the network by the user equipment.

Applicants do not see how one of ordinary skill in the art would think to combine He et al. and Asokan et al. He et al. discloses security access to network elements in a computer network environment. He et al. is also concerned with a number of failed authentication attempts, and log-in attempts by a user. On the other hand, Asokan et al. discloses a method for a mobile station to obtain an IP network address, where the uniqueness of a link identifier is evaluated before the generation of the IP network address. The method perform by Asokan et al. occurs in a GPRS system (environment). Therefore, the two environments and corresponding objectives are dissimilar.

The Examiner has not identified any teaching or suggestion, anywhere in Asokan et al. that would lead one skilled in the art to look to Asokan et al. for receiving a communication address request for a temporary communication address from user equipment, the communication address request including an identifier of the user equipment with the objective of processing the communication address request based on a failure count accessed using the identifier for the user equipment, as recited in claim 1.

Accordingly, Applicants respectfully submit that claim 1 is allowable for at least the additional reason that the Examiner has failed to establish a proper *prima facie* case of obviousness under 35 U.S.C. 103(a), in view of Dembiczak and Kotzab.

Further, The Examiner is using impermissible hindsight reconstruction to reject the claims. The Examiner has used the present application as a blueprint, selected a prior art method where failed authentication and log-in attempts of a user are tracked (however, not communication address request attempts), and then searched other prior

art for the missing elements without identifying or discussing any specific evidence of motivation to combine, other than providing conclusory statements regarding knowledge in the art. The Federal Circuit has noted that the PTO and the courts "cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention," In re Fine, 837 F.2d 1071, 1075, 5 USPQ2d 1780, 1783 (Fed. Cir. 1988), and that the best defense against hindsight-based obviousness analysis is the rigorous application of the requirement for a showing of a teaching or motivation to combine the prior art references. Combining prior art references without evidence of such a suggestion, teaching, or motivation simply takes the inventor's disclosure as a blueprint for piecing together the prior art to defeat patentability--the essence of hindsight. Dembiczak, 50 USPQ2d at 1617. Applicants respectfully submit that claim 1 is allowable for at least this additional reason.

Accordingly, for at least those reasons set forth above, Applicants respectfully request withdrawal of the outstanding rejection and submit that claim 1, and those claims dependent thereon, are allowable.

CONCLUSION

Accordingly, in view of the above amendments and remarks, reconsideration of the objections and rejections of each of claims 1-18 in connection with the present application is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKEY, & PIERCE, P.L.C.

By _____
Gary D. Yacura, Reg. No. 35,416

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY:jcp

Attachment: One (1) Replacement Sheet of Drawings